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7 **UNITED STATES DISTRICT COURT**  
8 **DISTRICT OF NEVADA**  
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10 KEVIN HIEW, *et al.*,

11 Plaintiffs,

12 v.

13 SAXON MORTGAGE SERVICES, *et al.*,

14 Defendants.  
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Case No. 2:12-CV-576-KJD-PAL

**ORDER**

16 Presently before the Court is Defendant Bank of America, N.A.'s and Defendant ReconTrust  
17 Company's Motion to Dismiss and Motion to Expunge Lis Pendens (#5/6). Defendants Saxon  
18 Mortgage Services and Mortgage Electronic Registration Systems, Inc. ("MERS") filed Joinders  
19 (#8/12) to the motions. Counsel appeared for Plaintiffs on May 3, 2012. On May 7, 2012, the Court  
20 granted (#18), Plaintiff's motion to extend time to respond to the motion to dismiss until May 21,  
21 2012. Though the time for doing so has passed, Plaintiffs have failed to file a response in opposition  
22 to the motion to dismiss.

23 On June 3, 2012, Plaintiffs filed Notice of Bankruptcy (#24) which demonstrated that a  
24 Chapter 11 bankruptcy petition had been filed on their behalf. To the extent that Plaintiffs sought an  
25 automatic stay of the proceedings because they filed a bankruptcy petition, that relief is denied,  
26 because it is undisputed that the Bankruptcy Code's automatic stay does not apply to judicial

1 proceedings, such as this suit, that were initiated by debtor. See Brown v. Armstrong, 949 F.2d  
2 1007, 1009-1010 (8th Cir. 1991); 11 U.S.C. § 362(a)(1) (filing of petition automatically stays  
3 commencement or continuation of proceedings “against the debtor”).

4 Having read and considered the motions, the pleadings, the documents of which the Court  
5 can take judicial notice, and good cause being found, the Court grants the motion to dismiss on the  
6 merits and in accordance with Local Rule 7-2(d).

7 Accordingly, IT IS HEREBY ORDERED that Defendants’ Motion to Dismiss and Motion to  
8 Expunge Lis Pendens (#5/6) are **GRANTED**;

9 IT IS FURTHER ORDERED that the Clerk of the Court enter **JUDGMENT** for Defendants  
10 and against Plaintiffs;

11 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that any Pendency of Action or  
12 Lis Pendens recorded on March 15, 2012 as 201203150002033 by the Plaintiffs in the Official  
13 Records of Clark County Nevada in association with this action on the subject property at 2097  
14 Orchard Mist Street, Las Vegas, NV 89135; APN 164-02-219-004; more particularly described as  
15 follows:

16 THAT ALL REAL PROPERTY SITUATED IN THE COUNTY OF CLARK, STATE OF  
17 NEVADA, DESCRIBED AS FOLLOWS:

18 LOT 19, IN BLOCK 5 OF RED ROCK CC/SUMMERLIN 22 UNIT, AS SHOWN BY MAP  
19 THEREOF FILED IN THE OFFICE OF THE COUNTY RECORDER OF CLARK  
COUNTY, NEVADA, IN BOOK 108, PAGE 55.

20 pursuant to NRS 14.015, shall have from this day forward no force or effect;

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1 IT IS FURTHER ORDERED ADJUDGED AND DECREED that pursuant to NRS  
2 14.015(5), Plaintiffs shall record a copy of this Order (or other appropriate notice) cancelling the  
3 Notices of Pendency of Action or Lis Pendens, with the Clark County Recorder's Office within five  
4 business days of its entry, and if there is failure to do so, any party may record a copy of this Order.

5 DATED this 27<sup>th</sup> day of July 2012.

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9 Kent J. Dawson  
10 United States District Judge  
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